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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

Local Competition Survey

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CC Docket No. 91-141

CCB-IAD File No. 98-102

**REPLY COMMENTS OF BELL ATLANTIC<sup>1</sup>**

Competition in the local telecommunications market is extensive and growing fast. For example, based on the information available to it, Bell Atlantic estimates that over a million lines in the Bell Atlantic region are being served by competitors, and competitive facilities are already in place that can serve many more lines. But the full scope of competition can only be determined with data from the competitors themselves.

Virtually all of the comments filed in response to the Commission's public notice agree that, if the Commission institutes a survey, all carriers should respond. There is also a general consensus that the survey should be conducted at a state level, and should be submitted semi-annually or less frequently. Finally, there is a general sense that reporting on interim number portability arrangements would not provide useful information.

On the other hand, several of the comments make clear that the Commission must take care to ensure that, if it adopts a survey, the survey actually serves the intended

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<sup>1</sup> The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company and New England Telephone and Telegraph Company.

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purpose, without creating unnecessary burdens. For example, some commenters seek to reshape the survey in ways that would mask the true extent of competition in the local marketplace. Others seek to use the survey to create another front in the ongoing regulatory battle to prevent the Bell companies from entering the in-region interLATA market. Finally, some simply seek to create additional burdens for incumbent LECs in hopes of hindering their ability to compete. The Commission should guard against such regulatory gaming. There should be no survey unless it serves a clear purpose, obtains information from all segments of the industry, and is structured to minimize the burden on responding carriers.

**II. The Commission Should Institute A Survey Only If All Carriers Participate And The Survey Is Designed To Minimize Burdens On Responding Carriers.**

The best information on competitive activity in the market is in the possession of the providers of competing services. Incumbent local exchange carriers have only limited information about the operations and activities of those providers. To obtain a complete picture of the state of local competition, the Commission must require competing carriers to participate in the local competition survey.<sup>2</sup>

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<sup>2</sup> Because services provided pursuant to Section 22.901 of the Commission's regulations (47 C.F.R. § 22.901) are not considered to be telephone exchange services for purposes of section 271 of the Act, there is no reason to require providers of such services to participate in the local competition survey.

CLECs could be exempted from responding to the survey until the first full reporting period after they have been in operation for six months in a particular state. The suggestion by TRA that CLECs be excused from reporting until they have a minimum of 10,000 or 25,000 lines in each reporting area, however, should be rejected. TRA Comments at 4. Under that limitation, many CLECs would be able to avoid reporting, thereby providing a distorted picture of the competition that is developing rapidly. This would be particularly troubling in those state where the total number of access lines for all carriers combined is small. For example, a 25,000 line minimum

Although there is general consensus that, if a survey is instituted, both ILECs and CLECs should respond, many CLECs argue that ILECs should still bear the “principal responsibility” for reporting,<sup>3</sup> that ILECs should have more detailed reporting requirements than CLECs,<sup>4</sup> or that ILECs should report more frequently than CLECs.<sup>5</sup> This makes no sense. ILECs are not an endless source of data about activity in the telecommunications industry. Indeed, as the Commission noted, “competitive local exchange carriers are likely the best source of consistently reliable information about . . . their provision of service.” Public Notice at ¶ 11.

Thus, for example, while ILECs can report the number of unbundled loops sold to other carriers, they generally do not know how those loops are used. Therefore, CLECs – the providers of service over the unbundled loops – should report whether the loops are used for business, residential, or other customers, and whether they are used to provide ISDN or xDSL services,<sup>6</sup> to the extent the Commission decides such information is useful. Competing providers should also be required to report on service provided over their own facilities, and to provide information on services that are substitutes for local

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would be more than seven percent of Bell Atlantic’s total lines in Vermont, and approximately 25% of Bell Atlantic’s business lines there. Clearly, TRA’s proposal would not give the Commission the information it seeks about the development of competition in the local market.

<sup>3</sup> *E.g.*, TRA Comments at 7. *See also* MCI Comments at 4-5.

<sup>4</sup> *E.g.*, Allegiance Comments at 2-4, 5-7; KMC Comments at 3-5; MCI Comments at 2-6. *See also* TCG Comments at 4.

<sup>5</sup> *E.g.*, Allegiance Comments at 2-3; TRA Comments at 5.

<sup>6</sup> *See* Allegiance Comments at 6; TCG Comments at 3-4; TRA Comments at 7.

exchange service or exchange access, such as AT&T's Digital Link Service, which competes directly with BA's local exchange and exchange access services.<sup>7</sup>

The Commission should not limit its focus to lines served, however. To get a full picture of the extent of local competition, the Commission should also seek information on the number of customers who have competitive alternatives available. Thus, as Bell Atlantic suggested in the initial comments, the Commission should require competing carriers to provide information about the type, location, and installed capacity of their switches. The Commission should also obtain information about competing carriers' fiber or other facilities. If the Commission decides to establish a local competition survey, obtaining information from the carriers who have that information is the most important step it can take to minimize the burden on reporting carriers.<sup>8</sup>

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<sup>7</sup> See e.g., AT&T's New York PSC Tariffs No. 15 (local exchange tariff providing Digital Link service); No. 17 (tariff providing interconnection to other carriers for the exchange of traffic in connection with AT&T's Digital Link Service); and No. 18 (intrastate carrier access service tariff providing exchange access in connection with AT&T's Digital Link Service). Digital Link service provides a trunk connection for digital PBXs to the local exchange network, and can provide direct inward dialing and/or direct outward dialing. Similarly, the Commission should require carriers to report on other services, sometimes masquerading as interexchange rather than local services, that serve as reasonable substitutes or alternatives to BA's local exchange and exchange access services. Examples of such services include Enhanced Private Switched Communications Service ("EPSCS"), Common Control Switching Arrangements ("CCSA") and many newer offerings.

<sup>8</sup> MCI's argument that CLECs should not be required to report the types and volumes of services and facilities obtained from ILECs because it "would be costly and burdensome" is nonsensical. MCI Comments at 4-5. These services and facilities are the inputs to the services CLECs provide to their customers – in effect, their inventory. CLECs will have as good, if not better, records than ILECs, and CLECs are the only ones who will know how the services and facilities are being used.

There is general consensus that the survey should be conducted at the state level.<sup>9</sup> A few commenters, however, propose reporting at an MSA level.<sup>10</sup> According to these commenters, MSAs are appropriate because they are “familiar” to both ILECs and CLECs,<sup>11</sup> and because ILECs already track local exchange data on an MSA basis for the ARMIS reports.<sup>12</sup> These commenters are wrong.

“Familiarity” does not, by itself, make MSAs an appropriate reporting basis. And neither the fact that the Commission required the implementation of long-term number portability by MSAs<sup>13</sup>, nor the existence of the ARMIS 43-05 report means that the information sought by the survey is tracked on that basis. The ARMIS 43-05 requires carriers to report their service quality separately for MSA and non-MSA parts of the region. Bell Atlantic has included an indicator in relevant systems indicating whether a building (and, therefore, the switch(es) contained in that building) is in an MSA. But

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<sup>9</sup> *E.g.*, ALTS Comments at 6-7; Ameritech Comments at 11; GTE Comments at 8; MCI Comments at 6-7; MediaOne Comments at 4; SBC Comments at 3; TCG Comments at 6; TRA Comments at 4-5; U S West Comments at 8. Although TRA supports reporting at the state level, it also suggests that ILECs identify cities, towns, and municipalities where they provide wholesale services, unbundled loops or switch ports, and collocation to CLECs. TRA Comments at 5. Again, this would only tell part of the story. If the Commission wants to know where competition is developing, the Commission should require CLECs to report the zip codes in which they provide residential service and those in which they provide business service, through resale of ILEC services, use of unbundled network elements, or over their own facilities. *See* Bell Atlantic Comments at 2, 4 n. 5.

<sup>10</sup> *E.g.*, Allegiance Comments at 7; AT&T Comments at 3-4; KMC Comments at 1-2.

<sup>11</sup> AT&T Comments at 3.

<sup>12</sup> KMC Comments at 2.

<sup>13</sup> Bell Atlantic’s wire center boundaries are not coterminous with MSA boundaries. The company, therefore, has implemented long-term number portability more widely than required by MSA boundaries.

there is no identification of which MSA a building or switch is in, and Bell Atlantic does not currently have the ability to report by MSA. Accordingly, any survey should be conducted at the state level.

A variety of commenters agreed with Bell Atlantic that carriers should be required to file the survey no more frequently than semi-annually.<sup>14</sup> As Bell Atlantic explained in its initial comments, filings should be made 90 days after the end of the period. Information for a reporting period generally is not available until four to six weeks following the close of the period, in part because carriers may not always receive bills from other carriers with whom they exchange traffic in a timely fashion.

Moreover, the Commission's own estimate of 30 hours per response to complete the survey demonstrates the unreasonableness of quarterly filings. When carriers must provide responses for multiple states, the time that must be devoted to the survey mounts up quickly. Bell Atlantic estimates that it required approximately 300 hours to complete 13 state voluntary surveys.<sup>15</sup> This is the equivalent of a person working eight hours per day, five days a week for seven and one-half weeks – almost two months. Added to the weeks it takes before the information is available, this shows that quarterly filings would be both burdensome and impractical.

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<sup>14</sup> *E.g.*, ALTS Comments at 4-5; AT&T Comments at 18; GTE Comments at 10; TCG Comments at 6. *See also* U S West Comments at 9 (annually); USTA Comments at 9 (annual Notice of Inquiry).

<sup>15</sup> *See also* BellSouth Comments at 4-5 (300 hours); U S West Comments at 4 (over 200 hours).

### **III. The Commission Should Ensure That Any Survey Actually Serves Its Stated Purpose.<sup>16</sup>**

A number of CLECs seek to reshape the survey in ways that would mask, rather than reveal, the extent of competition in the local market. In addition, some CLECs seek to make the survey yet another front in the battle to keep the Bell companies out of the in-region long distance market. The Commission should reject both ploys.

A number of CLECs suggest that the Commission eliminate any reporting of minutes of use from the survey.<sup>17</sup> Doing so, and relying only on lines in service instead, would understate the volume of traffic CLECs are winning from ILECs and thus would mask the extent of competition. Moreover, including this information would assist the Commission in gauging the extent of facilities-based competition. The data submitted by Bell Atlantic in response to the voluntary survey showed that for the Bell Atlantic region as a whole, and for six of Bell Atlantic's states, Bell Atlantic exchanged more minutes of use with CLECs than with wireless carriers – nearly two and one-half times as many

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<sup>16</sup> The Commission's stated purpose for proposing a survey – to “collect sufficient information to achieve the regulatory flexibility, pro-competition, and universal service objectives” of the 1996 Act (Public Notice at ¶ 1) – is nebulous, and raises a danger that the survey will become simply another data collection exercise that is never acted upon. To guard against that danger, the Commission should specify the standards for achieving regulatory flexibility and design the survey to capture that information. As a further safeguard, the Commission should adopt its proposed sunset of the survey (with the modification proposed by Bell Atlantic in its initial comments) so that the reporting requirement ends automatically and it does not require another regulatory proceeding to eliminate the survey.

<sup>17</sup> *E.g.*, ALTS Comments at 10; MediaOne Comments at 2, 3. *See also* BellSouth Comments at 9; GTE Comments at 9.

minutes for the region as a whole in the fourth quarter of 1997.<sup>18</sup> Given the length of time wireless carriers have been operating, and the prevalence of cellular phones these days, this is indicative of the rapid growth of competition in the local market – information that would be hidden if the survey focused only on lines used by CLECs to serve their end users.<sup>19</sup>

Similarly, several CLECs suggest that the survey focus only on switched services, and not on dedicated circuits. Bell Atlantic faces substantial competition for both switched and special services from carriers using private lines and other non-switched services. Eliminating non-switched services and dedicated circuits from the survey, as ALTS suggests, would vastly understate the actual level of competition in the market.<sup>20</sup>

Finally, ALTS suggests that the survey report analog and digital lines separately, but not business and residential services. Eliminating the separate reporting of residential and business services would distort the picture of local competition presented by the survey results. Because business lines generally are a small proportion of total lines in a

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<sup>18</sup> In the first quarter of 1998, for the region as a whole, Bell Atlantic exchanged approximately three and one-half times as many minutes with CLECs as with wireless carriers.

<sup>19</sup> Bell Atlantic recognizes that ILECs may not capture flat-rated minutes, and that estimation using Dial Equipment Minutes or some other method may be necessary, but reporting this information is important nevertheless. Moreover, as Bell Atlantic noted in its initial comments, competing carriers should report not only traffic originating or terminating with end users, but also the amount of traffic received from other carriers that is terminated to information services providers, and whether that traffic is handed off to the ISPs in the same local calling area where the call originated or in a different calling area where the competing carrier has its switch or other presence.

<sup>20</sup> ALTS's suggestion, however, indicates that the Commission should remove interstate special access services from price cap regulation pursuant to the pricing flexibility proposal presented by Bell Atlantic in the letter from Ken Rust to Magalie Roman Salas, dated April 27, 1998 in CC Docket No. 96-262.



state, but provide on average significantly greater revenues per access line than do residential lines, adopting ALTS's suggestion would understate the level of competition for the most lucrative customers. In addition, it would hide the failure of CLECs to provide services to residential customers. The efforts of CLECs to reshape the survey in a way that distorts actual competition should be rejected.

On the other hand, a number of CLECs seek to add questions to the survey that would not produce information about the actual status of competition. Instead, they would merely create new battlegrounds in the continuing crusade to keep Bell Operating Companies out of the long distance market.

For example, several CLECs suggest that ILECs be required to report operations support system performance levels.<sup>21</sup> Similarly, AT&T proposes that the survey "inquire into barriers to entry" experienced by CLECs.<sup>22</sup> These additions would provide the Commission absolutely no information about the level of competition in the local market. Instead, it would turn a straightforward data gathering mechanism into another regulatory battleground, and would thereby increase the burden for all providers of information. Accordingly, these suggested additions to the survey should be rejected.

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<sup>21</sup> E.g., Allegiance Comments at 6-7; KMC Comments at 4. Serious questions about the Commission's authority to seek this type of information have been raised in *Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance*, 11 Comm. Reg. (P&F) 51-5025 (1998). In any event, Bell Atlantic already provides extensive performance measurements to the Commission and this would simply be duplicative.

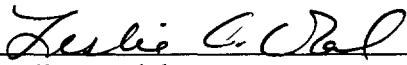
<sup>22</sup> AT&T Comments at 12.

## CONCLUSION

If the Commission decides to institute a survey, all carriers providing local exchange services and exchange access services should be required to provide information. In addition, the Commission must ensure that the survey actually serves its stated purpose, and must reject efforts to reshape the survey in a way that would present a distorted picture of local competition.

Respectfully submitted,

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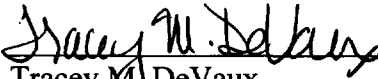
  
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June 22, 1998

CERTIFICATE OF SERVICE

I hereby certify that on this 22<sup>nd</sup> day of June, 1998 a copy of the foregoing "Reply  
Comments of Bell Atlantic" was served on the parties on the attached list.

  
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